100 Million Tax Seen If Insurance Bill Passes

North Coast Council Opposes Compulsory Insurance Bill

State levies of one hundred million dollars a year would be required to finance the compulsory health insurance plan now awaiting action by the California Legislature, members of the North Coast Council Taxation Committee—one of the major State Chamber of Commerce committees meeting here today—pointed out following their meeting.

Discussion of the health insurance plan featured the Taxation Committee's session during the morning. H. H. Sawyer, chairman, presided at the meeting, at which a bulletin recently compiled by the State Chamber on the plan, was read and discussed at length.

Of the $100,000,000 annual tax levy, $80,000,000 would be raised by new pay roll taxes and new state or federal taxes, the committee pointed out. This amount would go into a medical benefit fund, and $20,000,000 would be shifted from the employee pay roll taxes now going into the unemployment reserve fund would be shifted to a new disability benefit fund, according to the State Chamber's bulletin, which analyzes Assembly Bill 2172.

From the fund of $80,000,000 to be so created, the state would undertake to provide all medical care and medicines, and specified dental, hospital and nursing care, to all employed workers receiving less than $3,000 per year and their dependents.

The State Chamber bulletin says:

"The most important provisions of the measure would provide for a system of compulsory health insurance for about 1,800,000 employed workers and dependents. Under this act, the state would collect by new taxation about $80,000,000 annually, to go into a state medical benefit fund.

Employees Provide One-Third

"Employees would provide one-third of this fund by means of a 1 per cent pay roll tax on earnings. The remaining two-thirds would be provided by the general public, one-third to be raised by a 1 per cent employer pay roll tax, and one-third by other new taxes which are not specified in this measure.

"For about 70 per cent of the state's population the existing relationship between doctors and patients would be entirely changed. All licensed physicians and surgeons would be permitted to register and contract with the state to furnish medical and surgical care for this group of workers and their dependents.

"A doctor's payment would not be on the present basis of fees for various services actually rendered to individual patients, but each doctor would be paid a uniform flat rate of so many dollars per year for each person on his medical list, regardless of the amount or quality of services rendered."

The State Chamber of Commerce, at a recent meeting of its Board of Directors, voted to oppose this health insurance measure, raising particular objection to the method of finance proposed, and the addition of new pay roll taxes on industrial and business employers.—Santa Rosa *Republican,* May 5.

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Health Insurance Bill Loses First Test in Assembly

Administration Forces Beaten on Referendum Amendment; Final Defeat Is Predicted

Sacramento, May 16.—By a vote of 41 to 33 the Assembly late today gave positive indication it will defeat the compulsory health insurance bill sponsored by Governor Olson when the measure is up for final action.

The decisive vote came on an amendment by administration forces to provide that the bill would not become effective until it had been approved by the people. Plans were to submit it to the voters at the 1940 general election.

The amendment proposing a referendum was offered in an effort to stave off defeat for the administration forces. Assemblyman Ben Rosenthal, Los Angeles, author of the bill and an Olson leader, presented the amendment.

Termed "Evasive"

Characterizing the amendment as "a subterfuge and an evidence of insincerity," Assemblyman Melvin I. Cronin, San Francisco, one of the opponents of the bill, declared the sponsors of the health insurance program should submit it as an initiative measure if they wished to put it before the people.

Assemblyman Charles W. Lyon, Los Angeles, joined in urging defeat for the amendment, declaring the "orderly way for the Legislature to submit such a program is by a constitutional amendment which would require the votes of fifty-four members of this body." He also branded the amendment as "evasion and a subterfuge."

Prior to the vote on the amendment a series of other changes were made in the bill. The most important exempted members of the Christian Scientist faith from the provisions of the bill. Another provided for cash reimbursement and hospitalization for those who earn more than $3,000 annually, giving them the same credit as those in the brackets between $300 and $3,000. Other amendments excluded all persons not included under provisions of the unemployment reserves act.

Assemblyman Rosenthal admitted that his bill faced defeat. He declared the "medical lobby" had been too strong for his forces.

The bill provides for the establishment of a compulsory health insurance system for persons earning between $300 and $3,000 per annum, financed by a 1 per cent contribution from employer, employee and state. Physicians would register under a panel system. The plan would be placed within the present unemployment reserves for administrative purposes.—San Francisco *Chronicle,* May 17.

LETTERS

Subject: Statute of limitations.*

(COPY)

May 9, 1939.

Dear Doctor:

Yours of May 1 addressed to the California Medical Association has been referred to me for reply. Ordinarily, a claim for medical services would be barred by the statute of limitations if pleaded, unless suit is brought within two years from the date of rendition of services. Therefore, it is well to either commence a suit within two years from date of rendition of services or secure a promissory note or a written acknowledgment of the debt before the two-year period passes.

Under certain circumstances the statute of limitations on a suit to recover professional fees is four years, but it is not advisable to wait more than two years and risk the interposition of the two-year statute as a defense.

Normally a claim for negligence (malpractice) against a physician can be barred by pleading the statute of limitations if the action is commenced more than one year after the alleged negligent action or omission occurred.

I am stating the general rules. There are exceptions to both, particularly in malpractice cases where the alleged negligent act may be a continuing one, *e. g.,* failure to remove a sponge.

Very truly yours,

HARTLEY F. PEART.

Subject: Medical advice over the radio.

(COPY)

JOINT COMMITTEE ON PROFESSIONAL RELATIONS
OF THE
MEDICAL SOCIETY OF NEW JERSEY
AND THE
NEW JERSEY PHARMACEUTICAL ASSOCIATION

Trenton, New Jersey,

May 5, 1939.

To the Editor:—The Joint Committee on Professional Relations of the Medical Society of New Jersey and the New Jersey Pharmaceutical Association at a recent meeting passed the following resolution, which has been endorsed by the Medical Society of New Jersey and the New Jersey Pharmaceutical Association:

Resolved, That the Joint Committee on Professional Relations request the Medical Society of New Jersey and the New Jersey Pharmaceutical Association to enter a formal protest against the prescribing of medicines and the giving of medical advice on the radio, with the excep-

* Copy of a letter from General Counsel Hartley F. Peart to a member of the California Medical Association.

tion of such broadcasts on health matters as are given under the auspices of recognized associations of licensed physicians or Federal, State and local health departments; and be it further

Resolved, That such protest be sent to the broadcasting companies and the Federal Communications Commission.

The members of your organization have doubtless been moved to protest against the type of medical advice that is furnished over the radio in connection with patent medicine broadcasts. This type of promotion in behalf of self-medication is becoming more subtle and radio announcers are endeavoring to tie up their advertising message with some complimentary reference to the medical and pharmaceutical professions.

We believe the time has come for concerted action to curtail this type of activity, in behalf of the lay public which is unable to recognize the difference between correct medical advice and commercial propaganda, and we trust, therefore, that your organization may pass a resolution similar to the one noted above and send it to broadcasting companies and the Federal Communications Commission at Washington, D. C. . . .

319 Trenton Trust Building,

Very truly yours,

JOINT COMMITTEE ON PROFESSIONAL RELATIONS.
Prescott R. Loveland, *Secretary.*

Subject: Certain reports—To be had on application.

THE AMERICAN PUBLIC HEALTH ASSOCIATION

New York, N. Y., May 11, 1939.

To the Editor:—The American Public Health Association has recently adopted five reports dealing with educational qualifications of public health statisticians, school health educators, public health engineers, sanitarians, and subprofessional field personnel in sanitation. A copy of each report is sent you in the hope that you will find it possible to carry an item in your Journal announcing their availability. These reports are distributed free of charge in the hope that they will serve a useful purpose in raising the educational standards of professional public health personnel. Copies may be secured from the Book Service, American Public Health Association, 50 West Fiftieth Street, New York, N. Y.

Your coöperation will be greatly appreciated.

50 West Fiftieth Street.

REGINALD M. ATWATER, M. D.,
Executive Secretary.

Subject: Benzyl benzoate, not Benzoyl benzoate: A correction.

(COPY)

May 11, 1939.

To the Editor:—My article in the April issue, page 265, of CALIFORNIA AND WESTERN MEDICINE, "A Comparative Study of Sodium Thiosulphate Treatment of Scabies as Compared with Benzyl Benzoate," has an error which is of great importance (and which was not noted at the time I corrected the proofs).

Instead of benzoyl benzoate, as stated in the article, it should be benzyl benzoate. These two drugs are entirely different, benzyl benzoate only being active in the treatment of scabies.

I would appreciate it very much if you have any means of making a correction in your next issue of CALIFORNIA AND WESTERN MEDICINE.

Very truly yours,

ARNE ELY INGELS, M. D.

MEDICAL JURISPRUDENCE†

By HARTLEY F. PEART, ESQ.
San Francisco

EXTENSION TO NURSE OF OBLIGATION TO KEEP COMMUNICATIONS CONFIDENTIAL

In the April issue of CALIFORNIA AND WESTERN MEDICINE, the author treated under the title, "Legal and Ethical Protection Given to Facts Made Known to a Physician in Confidence," various phases of the obligation resting upon a physician to keep inviolate, facts learned from or about a patient during the existence of the physician-patient relationship. The following is a brief summary of an opinion of a California District Court of Appeal upon the issue: How far, if at all, does the obligation of confidence bind a physician's assistants? The facts of the case in which the opinion was rendered (*Kramer* vs. *Policy Holders' Life Ins. Assn.,* 5 Cal. App. (2nd) 380) are interesting though recurrent.

Plaintiff brought suit, as beneficiary, upon an insurance policy in which his diseased wife was the insured. On February 2, 1930, in her application for the policy, deceased stated that she had consulted a doctor within three years for a minor operation of the breast, but had fully recovered from such operation and that her present state of health was good.

On July 2, 1930, the insured visited the Coffey-Humber Clinic in Los Angeles. At that time and place, a staff physician, in the presence of his stenographer, took the patient's history and made a physical examination. From the patient he learned, among other things, that between the 11th and 12th of December, 1929, less than two months before the acceptance of her application for insurance her right breast had been removed because of cancer. Also that, at the time of the removal of the right breast, she was informed by the doctor that there was already a tumor of the left breast, and many other facts as to her previous state of health. The physical examination revealed to the doctor that the insured had an extensive spread of cancer, originating in the right breast, which, in his opinion, had been in existence in her system for in excess of two years.

To show that the representations made by the insured in her application for insurance were false and untrue, and known by her to be so, the company attempted to introduce the testimony of the physician as to what he learned in taking the patient's history and making his examination. The appellate court in sustaining the act of the trial court in ruling out the testimony of the physician on the ground that the physician had gained such information in professional confidence, extended its opinion to include a discussion of the position of the physician's stenographer in relation to the confidential communications, which discussion is the latest expression of a California appellate court on this phase of law.

Due to the fact that the stenographer in this instance kept the registry of all appointments, got the patient ready, took off her waist so as to get at her chest, and remained during the examination to take down in shorthand all that the physician discovered, it can be said that her duties resembled those of an office nurse.

The Court said:

As already suggested, the mere presence of a third person does not mean that the privilege has been waived as to the doctor. The capacity in which the third person is present makes a real difference. There are three lines of cases in this respect. One in which a third party is present, whose

† Editor's Note.—This department of CALIFORNIA AND WESTERN MEDICINE, presenting copy submitted by Hartley F. Peart, Esq., will contain excerpts from and syllabi of recent decisions and analyses of legal points and procedures of interest to the profession.